United States Court of Appeals for the Federal Circuit

Key Rule Changes

Key changes to the Federal Circuit local rules are included below as a courtesy to assist you in perfecting your appeal. For complete details, please review the current rules and potential future changes by visiting the Court's online Rules and Notices pages at: www.cafc.uscourts.gov.

December 1, 2016 Changes
Cases opened on or after December 1, 2016 must comply with the updated rules.

The revisions to the Federal Circuit Rules ("Rules") and Federal Rules of Appellate Procedure ("FRAP") will change page limitations to word limitations for various documents submitted to the court, if those documents were prepared using a computer word processing program (abbreviated below as: "computer"):

- *FRAP 27(d)(2)*: A motion or a response to a motion may not exceed 5,200 words.
  - A reply may not exceed 2,600 words.
- FRAP 28(j): A citation of supplemental authority may not exceed 350 words.
- *Rule 29(b)*: The United States or its officer or agency or a state may file an amicus curiae brief during consideration of whether to grant rehearing without the consent of the parties or leave of court.
- *Rule 39(b)*: An objection to the bill of costs must not exceed 1,300 words.
- FRAP 35(b)(2) & 40(b): A Petition for Rehearing may not exceed 3,900 words.
- *Rule 40(e):* A response to a petition for rehearing must not exceed 3,900 words.
- *Rule 40(g):* An amicus brief on rehearing must not exceed 2,600 words.

April 1, 2016 Changes
Cases opened on or after April 1, 2016 must comply with the below rules.

Appeals, New *Rule 12 - Practice Notes*: Clarifies that any objection to an official caption should be made ***promptly*** after docketing of the appeal.

Briefs

- *Rule 28(a)(11):* A document that is included in both the addendum and appendix must have the same page numbering. For example, if in the appendix a judgment in question is numbered Appx7-10, it must also be numbered Appx7-10 in the addendum.

Citations

- *Rule 28(a)(11) and 28(f):* Requires appendices, supplemental appendices and addendum material to be numbered using the abbreviation "Appx" or "SAppx" followed by the page number, and to be referenced in the briefs accordingly. Review the Appendix Reference Formatting Best Practices Guide, on the CM/ECF Reference Materials page of our public web site www.cafc.uscourts.gov:

- *Rule 30(b)(4)(E):* Requires the use of Bates numbering for all pages of an appendix or supplemental appendix. Refer to the Adding Bates Number Guide available on the CM/ECF web page, Reference Materials.

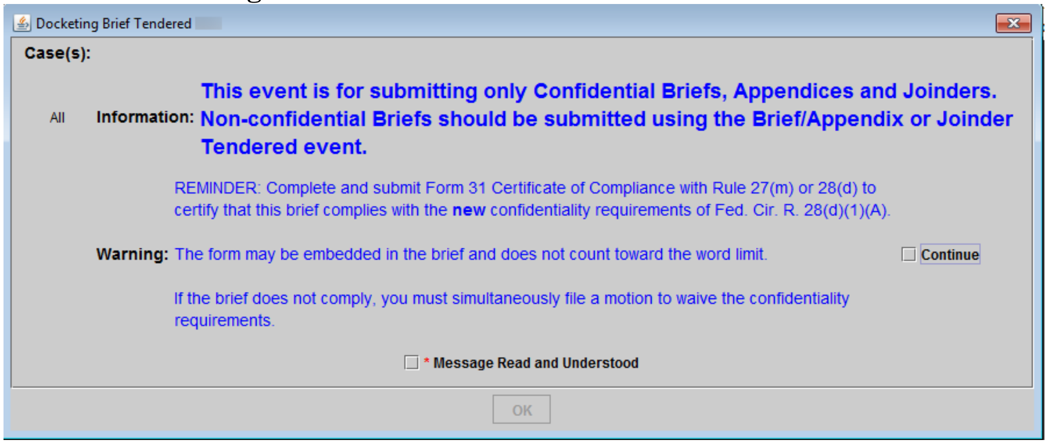
Confidential Material *Rule 27(m) and Rule 28(d):* No material in a brief, motion, response, or reply shall be marked confidential – The exceptions are as follows: Each brief, motion, response, or reply **may mark confidential up to fifteen (15) words** if the information (1) was treated in the matter under review as confidential pursuant to a judicial or administrative protective order and (2) such marking is authorized by statute, administrative regulation, or court rule (such as Federal Rule of Civil Procedure 26(c)(1)). A **50-word limit** applies in cases arising under 19 U.S.C. § 1516a or 28 U.S.C. § 1491(b).

- A motion, response or reply including confidential material must be accompanied by a certificate that the motion, response or reply complies with the word limitation. The form can be embedded within the brief or filed separately.
- Federal Circuit Form 31 is a suggested form of the certificate of compliance with this rule. It is the responsibility of the filing party to ensure that its certificate of compliance is accurate.

When you file a confidential document in CM/ECF, you will be asked to confirm that your document is compliant with all confidentiality requirements and/or that you have simultaneously filed a motion to waive the confidentiality requirements, if applicable (see *Figure 1* below).

- To confirm, simply select the check box as indicated in *Figure 1* and then select **OK**.

Figure 1. Confidential Brief Tendered Event


Docketing Brief Tendered
Case(s):
All
Information:
This event is for submitting only Confidential Briefs, Appendices and Joinders. Non-confidential Briefs should be submitted using the Brief/Appendix or Joinder Tendered event.
REMINDER: Complete and submit Form 31 Certificate of Compliance with Rule 27(m) or 28(d) to certify that this brief complies with the new confidentiality requirements of Fed. Cir. R. 28(d)(1)(A).
Warning:
The form may be embedded in the brief and does not count toward the word limit.
Continue
If the brief does not comply, you must simultaneously file a motion to waive the confidentiality requirements.
* Message Read and Understood
OK

Entry of Appearance (EOA) *Rule 47.3:* If an attorney's entry of appearance is first submitted after a case is assigned to a merits panel, the appearance will be treated as a motion to appear. Counsel must immediately file an updated EOA if representation changes. This included a change in contact information. Electronic filers must also report a change in contact information to the PACER Service Center.

Oral Argument *Rule 34 – Practice Notes:* Shortens the time to 7 days from notification by the Clerk's Office (via Notice of Docket Activity) that the case is fully briefed in which counsel must advise the Clerk's Office of schedule conflicts; Clarifies argument time per side (not per attorney).